THE UNITED STATES PATENT AND TRADEMARK OFFICE

In re the application of:

David N. RUCKER et al

Serial No: **10/645,635**

Filed   :   **August 22, 2003**

For   :   **TIMED FOOD-FILLED TOY DISPENSER**

Group Art Unit: **3643**

Examiner: **A.M. Valenti**

RESPONSE A

Commissioner for Patents
P.O. Box 1450
Alexandria, VA   22313-1450

Sir:

Responsive to the Office Action mailed March 3, 2004.

REMARKS

The Office Action of March 3, 2004 and the references cited have now been carefully studied. Reconsideration and allowance of this application are earnestly solicited.

The present invention is directed to a method for dispensing pet treats such as toys, food, or a combination thereof, during a time when the pet owner is away from the pet for a relatively long period of time, such as when the pet owner is at work. The applicants have recognized that it is important to dispense pet treats at times that are randomized in order to prevent the animal from learning the pattern of dispensations, becoming habituated to the dispensation intervals, and subsequently losing interest in the possibility of a dispensation between actual dispensation events. Further, applicants have recognized that it is also important to employ a purposeful, biased method of calculating these randomized dispensation times to avoid creating overly long intervals between dispensations which can adversely affect an animal's interest or feeding schedule. The applicants provide on application page 13 two

example solutions for calculating randomized yet distributed dispensation schedules, one example using random numbers generated during the calculation and the other example using preset stored numbers. In addition, applicants provide a device for dispensing pet treats on a schedule that specifically addresses the problem of separation anxiety in pets by systematically and repeatedly timing pet treat dispensations to the peak times of stress caused by pet owners' absences. It is believed that for the reasons enunciated hereinbelow, all of the claims as presently stated recite patentable subject matter.

The Examiner has rejected independent claims 1 and 6 as well as dependent claims 2, 7, 10, 12, 18 and 20 under 35 U.S.C. 102(b) as being anticipated by U.S. Patent No. 5,299,529 to Ramirez (Ramirez). This rejection is respectfully traversed.

The patent to Ramirez teaches a device and method for dispensing pet treats at a plurality of selected times; with a container for holding a plurality of pet treats; a time-controlled dispenser for dispensing a plurality of pet treats, said time controlled dispenser including a microprocessor and an input device.

The Examiner has suggested that Ramirez also teaches that said input device inputs the predetermined period into said microprocessor, and that said microprocessor includes a program to automatically calculate a schedule for dispensing the pet treats at times which are randomized. The Examiner cites Ramirez Col. 4 line 15 and Col 6 line 46-47 in support. Respectfully, applicants would like to state that Ramirez does not describe an input device that accepts a predetermined period, as is described in applicants' claim 1. Ramirez teaches that a human user directly enters discrete times for each dispensation, and not an overall predetermined period (Ramirez Col 4 Line 9; Col 4 Line 41; and Col 4 Line 67). The applicants' invention described in claim 1 has the advantage that a user may simply enter a desired predetermined period into an input device without having to specify a discrete time for each pet treat dispensation event.

The Examiner also suggests that Ramirez teaches that the microprocessor includes a program to automatically calculate

a dispensation schedule that is randomized. Examiner cites first Ramirez Col 4 Line 15 in support. Respectfully, the applicants would like to stress that Ramirez Col 4 Line 15 does not make any mention of automatically calculating a randomized schedule, and in fact does not teach that the microprocessor automatically calculates any schedule. The applicants submit that Ramirez Col 4 Line 15 confirms that the dispensation time schedule taught by Ramirez is user-created ("programmed") and relies solely on the user's discrete choices of dispensation times. The Examiner's second supporting citation, Ramirez Col 6 line 46-47, confirms that Ramirez teaches the use of a "programmed" microprocessor (in this case, Ramirez uses the term "programmed" to refer to the software resident in the microprocessor). However, Ramirez relies on the human user to input a specific dispensation schedule, and therefore applicants respectfully submit that the Ramirez microprocessor does not include a program to automatically calculate a schedule since the schedule is provided by the user.

The Examiner correctly points out that Ramirez teaches that the device can be programmed for any time dispensing frequency. However, it is important to note that the "programming" taught by Ramirez refers to a human user inputting a specific time for each dispensation. The frequency of dispensations generated in this manner, as the Examiner points out, may be influenced by food size; size and number of animals; what is suggested by the food product manufacturer; and the duration of the time the animal will be left unattended. These are all factors that may be part of a user's decision in choosing times for pet treats to be dispensed. However, it is important to note that Ramirez does not suggest nor anticipate that any specific timing schedule is superior, much less that using a novel timing schedule, such as the schedule described in applicants' claims 1 and 6, would improve invention performance or animal behavior.

It is respectfully submitted that it should not affect the patentability of the claims whether the users described in the Ramirez reference are physically capable of programming the functions included in applicants' claims 1 and 6. The method and

system of the present invention resides in the recognition of developing specific schedules for dispensing treats over a predetermined period, for example at times which are randomized, yet *biased*, such that when the predetermined period is subdivided into a number of consecutive intervals equal to the number of planned dispensations, the majority of these intervals would *always* contain at least one dispensation. Therefore, the fact that the users of the Ramirez device would be physically capable of programming dispensation times that would conform to the schedule described in claims 1 and 6 should not defeat the patentability of these claims since it is the applicants who invented the strategies for dispensing a pet treat recited in these claims. Consequently it is believed that claims 1 and 6 contain patentable subject matter; reconsideration and allowance of these claims is earnestly solicited.

The applicants note that dependant claims 2 and 5 are dependant on independent claim 1 which applicants believe contains patentable subject matter since Ramirez does not suggest nor anticipate a device, as described in applicants' independent claim 1, that automatically calculates over an input predetermined period pet treat dispensation times which are randomized yet biased such that when the predetermined period is subdivided into a number of consecutive intervals equal to the number of planned dispensations, the majority of the intervals always contain at least one dispensation. Consequently it is believed that dependent claims 2 and 5 would necessarily contain patentable subject matter.

The applicants also note that dependent claims 7, 10, 12, 18, and 20 are dependent on independent claim 6 which applicants believe contains patentable subject matter since Ramirez does not suggest nor anticipate a method, as described in applicants' independent claim 6, to automatically calculate over a predetermined period pet treat dispensation times which are randomized yet biased such that when the predetermined period is subdivided into a number of consecutive intervals equal to the number of planned dispensations, the majority of the intervals always contain at least one dispensation. Consequently it is

believed that dependent claims 7, 10, 12, 18, and 20 would necessarily contain patentable subject matter.

The Examiner has rejected independent claim 13 and dependent claims 11, 14, 17 and 19 under 35 U.S.C 103(a) as being unpatentable over U.S. Patent No. 5,299,529 to Ramirez (Ramirez). This rejection is respectfully traversed.

The applicants wish to note that claim 11 is dependant on independent claim 6 which applicants believe contains patentable subject matter as outlined in the previous discussion, and thus applicants believe that dependant claim 11 would necessarily contain patentable subject matter.

The patent to Ramirez teaches a device and method for dispensing pet treats at selected times, a container for holding a plurality of the pet treats; a time controlled dispenser for dispensing a plurality of the pet treats from said container, said time controlled dispenser including a microprocessor and an input device. The Examiner suggests that Ramirez also teaches that said input device signals said microprocessor to calculate a schedule for dispensing said pet treats, said microprocessor including a program to automatically calculate said schedule for dispensing the pet treats, said schedule constituting a first terminal interval, a second terminal interval, and at least one middle interval provided between said first and second terminal intervals. Examiner supports the suggestion by citing Ramirez (Col 1 line 31-33; Col 1 line 66-67; and Col 6 line 46-47).

The applicants agree that the Ramirez citations (Col 1 line 31-33; Col 1 line 66-67; and Col 6 line 46-47) confirm that Ramirez teaches a dispenser for pet treats that is timed and controlled by a microprocessor that contains a software program. However, the applicants, as noted in previous discussion, believe that Ramirez does not teach a microprocessor which includes a program to automatically calculate a schedule since the Ramirez schedule is provided by the user. Further, applicants note their belief that Ramirez does not suggest nor anticipate that any specific timing schedule is superior, much less that using a novel timing schedule, such as the schedule described in applicants' claim 13, would improve invention performance or

animal behavior.

The applicants submit that any dispensation schedule, however generated, which has two or more dispensations within a predetermined period can be defined as having a first and second terminal interval and at least one middle interval between dispensations, wherein said schedule dispenses at least one pet treat at the end of said first terminal and at least one pet treat at the beginning of said second terminal interval.

However, as the Examiner has noted, Ramirez is silent on said schedule being designed such that at least one of said terminal intervals is always less than the average time duration of all of said intervals, as recited in applicants' independent claim 13.

The Examiner suggests that the teachings of applicants' claim 13 would be obvious to a person of ordinary skill in the art. The Examiner suggests that said person could program the Ramirez device with dispensation times that conform to the teachings of applicants' claim 13 as a result of meeting the feeding and disciplinary needs of the animal since the time interval is a variable influenced by food size; the size, number, and kind of animals; what is suggested by the food manufacturer; and the duration of the time the animal will be left unattended.

The applicants respectfully submit that the dispensation schedule as recited in applicants' claim 13 creates superior and unexpected results in addressing separation anxiety in animals as described in applicants' application, paragraphs 15, 17, 33, 36 and 65. The invention of claim 13 specifically times pet treat rewards to the peak times of stress during separation (the existence of a pattern of peak stress times is itself not commonly understood) and also provides, as reflected by the language "always" in said claim, a systematic desensitization to the stress of repeated separation. Although there are many automatic feeding devices, the invention of claim 13 and its results are entirely unsuggested by the prior art, and such a device has never been implemented. Consequently it is believed that independent claim 13 contains patentable subject matter; reconsideration and allowance of this claim are earnestly
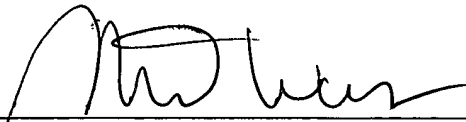
solicited.

The applicants further note that dependent claims 14, 17, and 19 are dependent on independent claim 13 which applicants believe contains patentable subject matter since, for the reasons stated above, it would not be obvious to one of ordinary skill in the art to program the dispensation schedule as described in claim 13. Consequently it is believed that dependant claims 14, 17, and 19 would necessarily contain patentable subject matter.

The Examiner has rejected dependent claims 3, 4, 8, 9, 15, and 16 under 35 U.S.C 103(a) as being unpatentable over U.S. Patent No. 5,299,529 to Ramirez (Ramirez) in view of U.S. Patent No. 6,273,027 to Watson et al. This rejection is respectfully traversed.

The applicants note that claims 3 and 4; 8 and 9, 15 and 16; are dependant respectively on independent claims 1; 6; 13; which applicants believe contain patentable subject matter as outlined in the previous discussion. Consequently it is believed that dependant claims 3, 4, 8, 9, 15, and 16 would necessarily contain patentable subject matter.

Therefore, since it is believed that all the claims are not anticipated nor suggested by the known prior art, reconsideration and allowance of this application are earnestly solicited.

Respectfully submitted,

By _____
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